Local Government Committee

29th Meeting, 2002

Tuesday 19 November 2002

The Committee will meet at 1.30 pm in the Hub, Castlehill, Edinburgh

1. **Items in private:** The Committee will consider whether to take items 5 and 7 in private.

2. **Subordinate Legislation:** The Committee will consider the following negative instruments—
   
   The Scottish Local Government Elections Rules 2002 (SSI 2002/457);
   

3. **Local Government in Scotland Bill:** The Committee will consider the Bill at Stage 2 (day 3).

4. **Renewing Local Democracy - Phase 2 Inquiry:** The Committee will take evidence from—
   
   Peter Peacock, MSP, Deputy Minister for Finance and Public Services;
   Leslie Evans, Head of Local Government Constitution and Governance Division, Scottish Executive;
   Heather Aitken, Policy Officer, Local Government Constitution and Governance Division, Scottish Executive.

5. **Renewing Local Democracy - Phase 2 Inquiry:** The Committee will consider its conclusions.

6. **Proportional Representation (Local Government Elections) (Scotland) Bill:** The Committee will take evidence on the general principles of the Bill at Stage 1 from—

   Councillor John Ross Scott, Leader, Scottish Borders Council;
   David Hume, Chief Executive, Scottish Borders Council;
   Councillor Pat Watters, President, COSLA;
   Barbara Lindsay, Policy Officer, COSLA;

   Andrew Burns, Chair, Fairshare Campaign Committee;
   Amy Rodger, Campaign Co-ordinator, Fairshare;
Willie Sullivan, Campaign Consultant, Fairshare; Stewart Maxwell, Member, Fairshare Campaign Committee.

7. **Dog Fouling (Scotland) Bill**: The Committee will consider a draft Stage 1 report.

Eugene Windsor
Clerk to the Committee
Room 2.05, Committee Chambers
85217
e mail: eugene.windsor@scottish.parliament.uk

The following papers are attached for this meeting:

**Agenda item 2**

The Scottish Local Government Elections Rules 2002 (SSI 2002/457) LG/02/29/1

Extract from the 38th Report of the Subordinate Legislation Committee SL/02/28R


Extract from 39th Report of the Subordinate Legislation Committee SL/02/29R

**Agenda item 3**

Local Government in Scotland Bill: Briefing paper from the adviser [PRIVATE] LG/02/29/3

**Agenda item 6**

Submission from the Scottish Borders Council LG/02/29/4

Submission from COSLA LG/02/29/5

Submission from Fairshare LG/02/29/6

Memorandum from the Scottish Executive LG/02/29/7

**Agenda item 7**

Dog Fouling (Scotland) Bill: Draft Stage 1 Report [PRIVATE] LG/02/29/8
Subordinate Legislation Committee

Remit and Membership

Remit:

The remit of the Committee is to consider and report on—

(a) (i) subordinate legislation which is laid before the Parliament;

(ii) any Scottish Statutory Instrument not laid before the Parliament but classified as general according to its subject matter;

and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

(b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

(c) general questions relating to powers to make subordinate legislation; and

(d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation.

*(Standing Orders of the Scottish Parliament Rule 6.11)*

Membership:

Bill Butler
Colin Campbell
Brian Fitzpatrick
Murdo Fraser
Gordon Jackson QC
Ian Jenkins (Deputy Convener)
Margo MacDonald (Convener)

Committee Clerks:

Alasdair Rankin
Steve Farrell
Alistair Fleming
Joanne Clinton
Subordinate Legislation Committee

38th Report 2002

Subordinate Legislation

The Committee reports to the Parliament as follows—

1. At its meeting on 29th October the Committee determined that the attention of the Parliament need not be drawn to the instruments listed in the Annexe to this report.

2. The report is also addressed to the following committees as the lead committees for the instruments specified:

<table>
<thead>
<tr>
<th>Committee</th>
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<tr>
<td>Justice 1</td>
<td>The Legal Aid (Scotland) Act 1986</td>
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<tr>
<td></td>
<td>Amendment Regulations 2002, (draft)</td>
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<td>Rural Development</td>
<td>SSI 2002/445</td>
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<td>Transport and the</td>
<td>SSI 2002/449</td>
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<td>Environment</td>
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Annexe

Draft instruments subject to approval

The Legal Aid (Scotland) Act 1986 Amendment Regulations 2002, (draft)

Instruments subject to annulment

The Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2002, (SSI 2002/451)


Instruments not laid before the Parliament


Subordinate Legislation Committee

Remit and Membership

Remit:

The remit of the Committee is to consider and report on—

(a) (i) subordinate legislation which is laid before the Parliament;

(ii) any Scottish Statutory Instrument not laid before the Parliament but classified as general according to its subject matter;

and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

(b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

(c) general questions relating to powers to make subordinate legislation; and

(d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation.

(Standing Orders of the Scottish Parliament Rule 6.11)

Membership:

Bill Butler
Colin Campbell
Brian Fitzpatrick
Murdo Fraser
Gordon Jackson QC
Ian Jenkins (Deputy Convener)
Margo MacDonald (Convener)

Committee Clerks:

Alasdair Rankin
Steve Farrell
Alistair Fleming
Joanne Clinton
Subordinate Legislation Committee

39th Report 2002

Subordinate Legislation

The Committee reports to the Parliament as follows—

1. At its meeting on 5th November the Committee determined that the attention of the Parliament need not be drawn to the instruments listed in the Annexe to this report.

2. The report is also addressed to the following committees as the lead committees for the instruments specified:

   Local Government       SSI 2002/457
   Health and Community Care  SSI 2002/465
                             SSI 2002/482
   Justice 2              SSI 2002/472
   Transport and the Environment  SSI 2002/473
Instruments subject to annulment


Background
1. The Committee asked the Executive four questions on the instrument.

Question 1
2. Rule 31 at paragraph (1)(b) on page 17, provides for a voter “who declares orally an ability to read”. The Committee assumed that the rule should provide for those declaring an inability to read but asked the Executive for clarification.

Question 2
3. The Executive was asked to explain why paragraph 4 of Schedule 3 purports to add a new paragraph (5) to rule 21 when the rule only has 3 paragraphs.

Question 3
4. Paragraph 17 of Schedule 3 makes reference to the words “counting of votes” in Rule 37, when the phrase actually used is “counting of the votes”. The Executive was asked for an explanation.

Question 4
5. The Executive was asked to explain the inconsistency in Schedule 1, whereby it revokes the 1986 Rules and some amending Rules from 1999, but does not mention the revocation of the amending rules from 1990, namely the Scottish Local Elections Amendment Rules 1990, SSI 1990/262).

Report
6. In its reply, reproduced at Appendix 2, the Executive confirmed that all the above are drafting errors. Although, in the opinion of the Executive, the errors are minor, it prefers that they be corrected swiftly to avoid any possible confusion or difficulty. An amending instrument will be prepared to correct them in early course and issued free of charge.

Report
7. Whilst the Committee agrees that three of the errors are minor, it regards the first error as appearing to have a material effect on the interpretation of a number of the Rules. The Executive’s undertaking to make amending Rules is therefore welcome. The Committee draws the attention of the lead committee and the Parliament to the instrument on the ground of defective drafting as above, acknowledged by the Executive and to the Executive’s undertaking to make an amending instrument.
Appendix 2

THE SCOTTISH LOCAL GOVERNMENT ELECTIONS RULES 2002
(S.S.I. 2002/457)

1. On 29 October 2002 the Committee asked the Executive for an explanation of the following matters—

   • “The Committee notes that rule 31 at paragraph (1)(b) on page 17, provides for a voter “who declares orally an ability to read”, but assumes that the rule should provide for those declaring an inability to read. The Executive is therefore asked for clarification of this matter.

   • The Executive is asked to explain why paragraph 4 of Schedule 3 purports to add a new paragraph (5) to rule 21 when the rule only has 3 paragraphs.

   • The Committee notes that paragraph 17 of Schedule 3 makes reference to the words “counting of votes” in Rule 37, when the phrase actually used is “counting of the votes” and seeks clarification from the Executive of this matter.

   • The Executive is asked to explain the inconsistency in Schedule 1, whereby it revokes the 1986 Rules and some amending Rules from 1999, but does not mention the revocation of the amending rules from 1990, namely the Scottish Local Elections Amendment Rules 1990, S.S.I. 1990/262)."

The Scottish Executive responds as follows:

First question

The Executive confirms that the rule should provide for those declaring an inability to read.

Second question

The Executive confirms that paragraph 4 of Schedule 3 should add a new paragraph (4) to rule 21.

Third question

The Executive confirms that paragraph 17 of Schedule 3 should make reference to the words “counting of the votes” in Rule 37.

Fourth question

The Executive confirms that Schedule 1 should revoke the Scottish Local Elections Amendment Rules 1990 (S.S.I. 1990/262) in addition to those listed in that Schedule.
The Executive is grateful to the Committee for drawing these errors to its attention. Although the errors are of a minor nature it is preferable that they are corrected swiftly to avoid any possible confusion or difficulty. An amending instrument will be prepared to correct them in early course and issued free of charge.

Scottish Executive

1 November 2002
A Rural Perspective on the Use of Proportional Representation (Single Transferable Voting) for Local Government Elections

David Hume
Chief Executive
Scottish Borders Council

Scottish Parliament Local Government Committee
19 November 2002

Introduction

This paper offers comment and views on the Proportional Representation (Local Government Elections) (Scotland) Bill, and in particular to the provisions of the Bill in respect of the single transferable voting system. The paper seeks to convey in particular a view of the provisions of the Bill from the perspective of a rural area.

The views expressed in this paper are the personal views of the author and should not be taken as the views of the Scottish Borders Council. The paper draws on experience of local government elections in the Scottish Borders and the City of Edinburgh.

The Context

The Scottish Borders has a total population of 106,764. Its total electorate for local government elections is 87,001 and there are currently 34 electoral divisions within the unitary authority’s area. The Scottish Borders is a largely rural area, with the largest towns being Hawick (15,719), Galashiels (13,766) and Peebles (7,080). Hawick has 5 electoral divisions, Galashiels 5, and Peebles 3.

Further statistics relating to recent local government elections are appended to this report, setting out the number of candidates by gender, turnout rates and the numbers of uncontested divisions.

As the statistics appended to this report show, there has been preponderance of male candidates putting themselves forward for election, and this pattern inevitably is reflected in the make up of the Council membership.
Other statistics, from the Scottish Household Survey for example, show the Scottish Borders to be an area where there is a very high level of engagement by local residents in community and voluntary activities.

Historically there has been less engagement of the main political parties in elections than in urban areas, and the area has a strong tradition of independent politics. There are signs discernible in recent times that this may be changing.

The Scottish Borders includes within its area strong, clearly identifiable geographical communities, where the link between the councillor and the community is very important. It is important that the voting system retains and sustains this linkage. It is this link that gives clear accountability between the elected representative and the community.

Public Engagement in the Democratic System

The voting system needs to engender a strong commitment to, and engagement with the democratic process by the electorate.

In part, engagement derives from the bond of accountability which should exist between the elected representative and his or her electorate. Evidence from Northern Ireland and elsewhere suggests that STV can retain this essential relationship.

Rural areas are characterised by long-standing traditions of independent political activism, and as a result the formal structures and resources of the political parties are often weaker than their counterparts in the urban areas. As a result, the training and development of political activists who aspire to holding elected office by the political parties may be weak, and in the case of independents virtually non-existent.

The Scottish Borders Council is launching an innovative Adult Education course for people who wish to put themselves forward for election or for anyone who wants to learn more about local government. The course, ‘Preparing for Elected Office’ starts in January and runs for eight weeks. An outline course programme is appended to this paper.

Improving Turnout

The voting system needs to be readily understood and barrier-free, and result thereby in significantly increased turn-out rates at elections.

A recent by-election held in the Scottish Borders was conducted on the basis of an all-postal ballot. The evaluation for this exercise is still to be finalised, but initial indications suggest that it was an easier process to administer, easy for the voters to understand and participate in. The ballot generated a turnout rate of 66%.
Inclusion

The voting system must facilitate and encourage the fair and balanced representation of all sectors within the population of the local authority area.

With regard to women's representation, research undertaken by the International Institute for Democracy and Electoral Assistance finds that PR systems are generally better than 'majoritarian' systems for increasing women's representation.

However, the findings also suggest that different PR systems can give rise to very different outcomes in this regard. International IDEA (2002) warn that with regard to Ireland, for example, where the STV system is used, lower levels of female representation than might be expected may be the result of relatively small electoral districts. In general, International IDEA (2002) conclude that the fewer electoral districts created, the better it is for women's representation.

Consideration will required to be given therefore to the size of the electoral divisions to be employed under an STV system, having regard to:

- The possible effect on women's representation
- The size of electoral divisions required in sparsely populated rural areas

Election Administration: Costs

The Financial Memorandum attached to the Bill states that:

"The costs of local government elections are met by the Scottish Executive and therefore a change in the way councillors are elected should not give rise to additional costs on local authorities"

This statement is incorrect. Local Authorities bear the full costs of local government elections, and therefore they may be subject to higher costs both in the short term, and in the longer term. Additional costs will require to be incurred in the following areas:

- Publicity and advertising
- Voter education
- Staff training and development
- IT software
Election Administration: Training

Additional training will be required for staff involved in the administration of any new electoral system.

Beyond that however, with the introduction of a new system, the opportunity should be taken to set down requirements for the ongoing training and updating of core election teams and other staff involved in the periods between elections. Currently no requirement exists in this regard, nor indeed does any financial provision for such training exist.

Election Administration: Quality Certification

The introduction on a new electoral system should also be taken as an opportunity to require that the local administration of elections should be quality certified to ISO 9001:2000 standards. The documentation, protocols, routine procedures and processes involved in the administration of elections are particularly well suited to the third-party assessment requirements of ISO 9000:2000.

Applicability of STV in Rural Areas

Consideration will require to be given to the particular arrangements required in rural and sparsely populated areas. It may be required that the number of members per ward differ between urbanised and rural areas, on the basis that to achieve four or five member divisions would require excessively large geographical areas. Rural divisions may more appropriately comprise two member divisions.

Representation was made to the Commission on Local Government Arrangements in Wales that whereas STV was appropriate for urban or well-populated areas, the size of multi-member constituencies which that system requires would make it unsuitable for use in under-populated rural areas. The Commission considered whether a combination of STV and AV could be used within any given local authority: STV being used within urban centres and AV used in single member divisions outwith the urban areas. The Commission decided to reject that option on the basis of:

- The potential lack of fairness to political parties
- the difficulty in achieving a clear consensus in choosing which system should be used in which areas

Conclusions

Proportional Representation (Single Transferable Voting) offers an opportunity to make democratic representation more balanced and reflective of the
demographics of the electorate. The elected membership of local councils would thereby be more representative of their local communities.

PR (STV) retains the link between the elected member and local electoral divisions and constituents.

Some flexibility will be required however in the implementation of the PR (STV) voting system in rural areas to reconcile the size of electoral divisions in a geographical sense against the population sizes required and the impact of both these issues on member-division links, and ensuring fair representation in terms of gender and other socio-demographic characteristics.

The opportunity should be taken to introduce new requirements into electoral arrangements with regard to quality certification of the processes involved and the training of staff at, and between elections.

David Hume
14 November 2002

References

Commission on Local Government Electoral Arrangements in Wales 'Improving Local Democracy in Wales' July 2002


Fairshare 'Renewing local Democracy - The Next Steps' July 2002

International IDEA 'Lessons for Expanding Women's Representation' 2002
Scottish Borders Local Government Election Statistics

1  **Divisions and Candidates by Gender**

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<th>Election</th>
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<td>1999</td>
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2  **% Turnout**

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<td>1994</td>
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<tr>
<td>1995</td>
<td>36.1</td>
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<td>1999</td>
<td>60.9</td>
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3  **Numbers of Uncontested Seats**

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<td>5</td>
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<td>1995</td>
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<td>1999</td>
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Scottish Borders Council

“Preparing for Elected Office”

Outline Programme

Venue – Scottish Borders Council, Newtown St Boswells

January – March 2003

Session 1  Wednesday 22\textsuperscript{nd} January
“Introduction to Local Government”
– (including course outline), description of council functions and responsibilities and overview of elected members role.

Session 2  Wednesday 29\textsuperscript{th} January
“Decision Making and Political Management Arrangements”
– including Council structures and Committee arrangements.

Session 3  Wednesday 5\textsuperscript{th} February
“Local Government Finance”
– to include finance systems, revenue and capital budgeting, Council Tax, other funding sources.

Session 4  Wednesday 12\textsuperscript{th} February
“The Legal Framework”
– to include local government powers and duties; consider the new Local Government Bill.

Session 5  Wednesday 19\textsuperscript{th} February
“The Role of Elected Members”
– to include codes of conduct, ethics role of ombudsman, auditor and the workload challenge.

Session 6  Wednesday 26\textsuperscript{th} February
“Partnership and joint working”
– to include the partnership agenda, community planning, work with other agencies.

Session 7  Wednesday 5\textsuperscript{th} March
“The Way Forward for Local Government”
– to include 21\textsuperscript{st} Century Government, Best Value and the modernisation agenda.

Session 8  Wednesday 12\textsuperscript{th} March
Panel Discussion
– an opportunity to participate in open discussion with a panel of serving elected members of Scottish Borders Council. Issues will be identified by course participants.
PROPORTIONAL REPRESENTATION (LOCAL GOVERNMENT ELECTIONS) (SCOTLAND) BILL: SUBMISSION FROM COSLA

Section 1 – Introduction

1. The thread running through this response is that the focus of action arising from the White Paper must be to secure and promote a strong and effective system of local government in Scotland which builds on and enhances the uniqueness of local government as a level of local democracy and the political accountability of councils.

2. As we approach the end of the first term of the Scottish Parliament it is clear that devolution has delivered many benefits for the people of Scotland both in the approach to developing public policy and in giving people more direct access to Government. However, we believe that now that the Scottish Parliament and the Scottish Executive have established themselves as a fundamental part of Scottish public life the time is right to address some of the longstanding concerns of local government. These include tensions between national and local priorities; financial dependency and lack of financial flexibility such as ring fencing of resources; a view of local government as just another service provider delivering to prescribed standards and controlled through monitoring and increasing central direction through a prescriptive framework of statute and guidance. The over-arching strand linking these is the development of a relationship with the Executive and the Parliament which recognises local government’s key role and secures action to promote a strong system of local government.

3. One route to reinforcing local government’s role and legitimacy would be to deliver formal constitutional protection for local government. It is slightly disappointing that the White Paper does not consider this and more radical change. COSLA would urge that the follow up to the White Paper must focus on action which can help to significantly change the terms of the relationship otherwise it will be viewed not as true democratic renewal but the rhetoric of democratic renewal.

Section 2 - Removing barriers

4. COSLA believes that we should be taking all possible steps to remove the barriers to making councils more representative of the make-up of the community. There is no single solution to this problem, and the ideas presented below should be regarded as elements that can be packaged in a number of different ways, depending on local concerns and circumstances. We suggest however that this issue as a whole can be approached at two broad levels:

- demonstrating our confidence that local elections capture the votes of representative sections of the population
- encouraging people from representative cross-sections of the population to stand for political office.
5. A third approach is enhancing democratic participation outwith formal democratic processes. It is considered under strengthening links with communities (see paragraphs 17-26 below) but it also has implications for representative democracy as well. Representative and participative forms of democracy should be seen as sitting side by side with one another.

Voter participation

6. Local elections on average attract only 40 per cent of the electorate (compared with over 70 per cent at general elections). While the reasons for this are not always clear, there is evidence that the individual’s age, residential mobility, housing tenure and involvement in the political process have some influence on the decision to vote or not. A key factor is an individual’s perception of whether or not the council has the ability to “make a difference”.

7. Promoting participation at elections should not just be left to party political campaigning. COSLA believes that councils themselves can also play a pro-active non-partisan role, supported by well co-ordinated campaign work at a national level. Various things can be done to promote voter participation:

- promoting a positive image of local government and relating work of the council and councillors to the everyday concerns of the general public – with COSLA playing a leading role in this regard
- conducting targeted campaigns (leaflets, talks, advertising, broadcasts, websites, etc) to encourage people to register to vote and to cast their vote, particularly among young people in schools, colleges, sports and other clubs, etc.
- issuing “use your vote” literature in disability and other special formats and in ethnic minority languages
- giving voters more choice (and supporting information) about when, where and how to cast their vote, for example, through weekend voting/increased hours of voting, choice of polling station, voting by telephone, use of mobile polling booths (e.g. in hospitals, residential homes), experimental use of new technology (e.g. use voter smart cards at shopping centres, etc)
- offering practical assistance to people having difficulties reaching polling stations or in casting their vote, for example, through volunteer support and enhanced facilities at polling stations.

Encouraging political service in local government

8. As acknowledged in the White Paper, the age, gender, socio-economic and other characteristics of councillors are not representative of the general population. There is an under representation of women, young people, people with disabilities, ethnic minorities and the business community. The factors that deter people from standing as councillors (or seeking re-election) are varied and complex. They include concerns about:

- capacity of local government to bring about real change
- difficulties of combining a political career with full-time employment or bringing up a family
- the demands on the time of councillors (meetings, travel, preparation, etc) and the range of work covered
- a consequential reduction of income, where only partially offset by councillors’ existing allowances
- lack of party political allegiance
9. Perceptions about the capacity of local government to deliver should become more positive as councils develop their strong community leadership role in the community planning process. This should also increase voter turnout as councils are given the freedom to be more innovative and responsive to the well-being of their communities.

10. Whilst the selection of election candidates is largely a party political matter, there are a number of actions that can be taken to attract people from under-represented groups to a career in local politics. COSLA believes that if we are going to make a difference we need to make a co-ordinated response involving all the initiatives set out below, including moving to a situation in which councillors receive a salary at a rate that properly reflects the nature of their job (see section):

- political parties developing socially inclusive and equalities approaches to attracting party members and selecting election candidates
- provision of promotional but non-partisan information pack about the roles and work of councillors (both basic and additional responsibilities), and induction packs for newly-elected councillors (possibly comprising core materials developed at a national level into which council-based information could be slotted)
- councillors being provided with skills and other training, tailored to their background, experience and levels of responsibility (working within a national training and development framework for councillors)
- business of councils being run in ways that are participative, inclusive and sensitised to the circumstances and needs of councillors from under-represented groups; for example the timing, frequency, location, content, format, management conduct and length of meetings and the scope for streamlining council business through new technology (e-mail, video-conferencing, etc)
- councils (and political parties where appropriate) giving councillors good access to support services, including professional advice, information and research, secretarial and clerical assistance and facilities such as office accommodation, e-mail and internet access.
- assistance (in cash or kind) for councillors looking after dependent children or other relatives (about one in three women councillors have to make their own child care arrangements, compared with only one in 10 male councillors)

11. COSLA would also support the development of some form of “citizenship legislation” that would entitle employees to some time off to carry out certain duties as councillors. Serving as a councillor is a particular problem for people in the 21-45 age group who are both building up their career and raising families. The current position is that there is relevant legislation both reserved to Westminster and devolved to the Scottish Parliament, namely:

- Employment Rights Act 1996, section 50: Employers must give councillors time off for attendance at meetings or other approved council duties, as may be reasonable in all the circumstances taking account of the amount of time, impact of the absence on the employer’s business etc
- Local Government and Housing Act 1989, section 10: This sets out the maximum paid leave which councils can give an employee who is a councillor with another authority, of 208 hours in any one financial year.

12. COSLA would like to see an entitlement for all employees for a minimum amount of paid leave. There is also a case for retaining the maximum entitlement for paid leave but this should be extended to all employers. This new entitlement will impact on employers’
businesses and particularly on small and medium sized enterprises (SMEs). We believe, therefore, that there must be some provision for reimbursing those employers who are least able to accommodate an employee wishing to serve as a councillor. We also need to think of ways of demonstrating to employers the benefits to the business community of political service with the council. This could create a climate in which employers actively encouraged their employees to serve as councillors through flexible working and provision of career breaks as well as provision for paid leave.

13. This “citizenship” legislation would need to be considered by the Westminster Parliament and would at the very least require an amendment to the Employment Rights Act 1996. The Executive should work with us in promoting this as a piece of legislation to be included in the Government’s legislative programme for Westminster. Given the timescales that might be involved in achieving new legislation, we believe that an interim solution should be to provide employees on unpaid leave a level of remuneration consistent with the framework set out elsewhere in our response.

Legislative change
14. If we are to positively encourage a wider cross-section of the community to seek election, it is clearly necessary to change the legislation which prevents this from happening. COSLA, therefore welcomes the introduction of the Sex Discrimination (Election Candidates) Act which in Scotland will be extended to all elections. We also welcome the Executive’s decision to amend the Local Government (Scotland) 1973 Act to allow persons of 18 years to qualify to hold office as a member of a local authority. We believe that the Local Government in Scotland Bill does provide a suitable legislative opportunity to do this as well as making provision to enable school children over the age of 16 years to be members of Education Committees.

15. COSLA supports the Executive’s decision to repeal the legislation establishing a salary threshold and amending the legislation dealing with the requirement to resign on nomination as a candidate. We would expect the proposed non-statutory guidance on “posts providing policy advice” to be prepared jointly with COSLA.

16. COSLA would support a review of the existing legislation which prohibits all retiring councillors from taking employment with the council for a period of one year. We want to see this restriction abolished. Whilst we recognise the importance of people’s perceptions and the need for councils to act fairly in all circumstances, we also need to recognise the human rights of retired councillors. In coming to these views, we are also reflecting the need to recruit teachers and social workers into council employment to meet skills gaps. COSLA would also support, wherever possible, removing the political restrictions upon other public sector employees wishing to stand for election as councillors. All public bodies should follow a similar approach to that proposal for council employees.

Links with communities
17. Councils are pro-actively seeking ways of improving links with their communities to enhance democratic participation. Among the ways being promoted are the following:

Altering public perceptions of local democracy
18. Local democracy is still popularly perceived as about council elections every three or four years, and somewhat remote from or irrelevant to the everyday concerns of communities. This has adverse implications not only for voting behaviour but for public participation in the democratic process as a whole. We need to think through ways of not only promoting
representative democracy at election times but also projecting local democracy as a continuing process of engagement with communities.

Engaging communities
19. Community engagement is about councils making themselves more responsive to the needs and aspirations of their communities (of place and interest) through such approaches as:

- improved communications between councils and their communities
- the use of surveys, panels, groupwork and other methods to assess the needs and wishes of their communities
- the extension of public participation in democratic decision making processes, for example, through area and interest forums and community representatives’ councils.
- community councils
- community learning

20. Many councils already engage with their communities in these ways, and the recently introduced Government in Scotland Bill will indeed require them to do so in carrying out their duty to facilitate community planning. Draft guidance associated with the Bill sets out a framework for engaging with communities in community planning processes. The challenge for councils and their community planning partners will be to demonstrate to communities that their engagement through any of the above or other approaches will bring about real change – and enhance representative local democracy.

Improved communications
21. Councils can come closer to their communities by conveying to them in clear and convincing terms how local democracy is working for them, for example through imaginative use of community newspapers, handbooks, websites, road shows, open days, etc. An important ingredient is how well councils report on their performance to their communities under the best value and community planning frameworks. There is also a particular need to reach out to socially excluded communities and equalities groups, disengaged from formal democratic processes: by speaking and writing in ways that best engage them, through the use of disability and other special formats, translations into ethnic minority languages, or through informal face-to-face approaches (e.g. among young people).

Customer-citizen focus
22. The success of local democracy also depends on how well in tune councils are with the concerns of their communities. Councils in their best value and other work make use of a wide range of methods and techniques for finding out about communities’ use of and satisfaction with public services, the difficulties and problems people face, and the future aspirations of their communities. This not only helps to ensure that decisions about policies, services and resource allocation are better informed but also helps convince communities that councils care about and are acting upon their concerns between and not just at election times. Councils should continue be given every encouragement to explore different methods and share good practices, for example, through the type of material produced by COSLA.

Participative democracy
23. Many councils support community and interest forums - what has come to be called a third tier of democracy - to wider public participation in democratic decision making processes. Forums bring together a wide range of community groups under a single umbrella to rationalise the representation of communities of place or interest (e.g. disability, older
people or young peoples’ forums) in democratic processes. They can be seen as sitting side by side with and supporting formal representative democracy and enhancing the role of elected representatives, with whom they can forge good links. While such forums are not for every community - some will be content with traditional approaches to local democracy – councils will nonetheless want to explore with their communities and community planning partners the scope extending democratic participation in this or other ways (e.g. community representatives’ councils). The benefits and development of such an approach would need to be considered alongside its community capacity building and associated resourcing implications.

24. We need to consider the question raised in the White Paper about the future of co-opted members. This is already raised in paragraph 8 above in relation to school children aged 16 years or more being able to be members of education committees. COSLA is also promoting an amendment in the Local Government Bill to allow councils which have adopted a cabinet/scrutiny form of political management to have discretion as to whether religious representatives should sit on the cabinet or the relevant scrutiny committee.

Community councils

25. In many areas, community councils provide an important formal link between councils and their communities. Community councils face similar challenges as councils however in promoting public awareness and understanding of their role and work and in attracting members who are broadly representative of the community. Many of the suggestions above about enhancing public participation both during and between elections apply with equal force to community councils. The linkages between community councils and other approaches to engaging with communities also require exploration, including the scope for joining up efforts, cutting out duplication and reducing consultation fatigue.

Community learning

26. Community learning (through informal as well as formal methods) has a key role to play in raising awareness and appreciation of the nature, role, importance and working of local democracy, among target groups in schools, colleges, youth and community groups, etc. This includes highlighting the critical importance of voting and the implications of not doing so. It particularly means reaching out to vulnerable people approaching voting age or who have already become disaffected or excluded from formal democratic processes. Community learning work should not however just be about understanding formal democratic processes. It should be about heightening in a non-partisan way people’s critical understanding of the issues that are the focus of public debate at and between elections.

Section 3 – Remuneration

27. The White Paper states that Ministers are committed to changing the current system of councillors’ allowances and to establishing some form of pension provision for councillors. This issue has been debated over some considerable time. Most recently the McIntosh Commission and the Kerley Group both recommended revisions to remuneration arrangements. It is essential that debate on this issue now comes to a conclusion. The case for a change to current arrangements is irrefutable; change needs to be enacted as a matter of priority.
28. COSLA’s submission is founded on the principle of achieving parity of esteem across the democratically elected tiers of government. National politicians consider and determine national policies and increasingly this is being done in partnership with local government, who also set local priorities. The Scottish Executive, however, has recognised that it cannot deliver on its priorities alone. In fact, the Scottish Executive itself does not deliver services. It provides resources and it sets national standards in key areas but delivery is down to local government and partners. In many respects, therefore, it could be argued that local councillors are more directly accountable to the electorate for their decisions and performance than national politicians.

29. In the past, there was perhaps a suggestion that there was a voluntary element to a local councillor’s job. As this response demonstrates and indeed as the White Paper clearly sets out, given the onerous nature and time commitment of a local councillor’s job and the need to put in place arrangements which make the position of being a local elected member an attractive prospect, revisions need to be made to arrangements to recognise the important status of the job. A locally elected member’s position is, therefore, not voluntary and is no different from that of an MP or MSP. This needs to be recognised by the introduction of suitable remuneration and pension arrangements.

30. It is essential that the package of the remuneration and pensions arrangements is fully funded. Further more detailed work is needed to evaluate the potential cost of any new arrangements. However, to provide a guide COSLA has modelled the possible cost of the proposals set out in this submission; the introduction of a basic salary and additional responsibility payments and pension arrangements within an appropriate employer’s contribution. Modelling suggests that, when compared to current basic and special responsibility allowance payments, there would be an increased cost compared to the current position but that this would still represent a very small percentage of overall local government spend. It is suggested that such a small cost is inexpensive when considered against the benefits of putting in place arrangements which recognise the democratic value and responsibilities of locally elected members across Scotland.

31. Detailed work has been undertaken by a Task Group and their report is available as a background paper. In summary,

- COSLA supports the introduction of an independent national remuneration committee to set a standardised basic salary for all councillors across Scotland with that level being updated on an annual basis. That committee should also be charged with setting a broad national framework for additional responsibility and salaried payments, with this framework giving flexibility for individual councils to introduce the most appropriate arrangements locally.

- There should be a direct link between the basic salary for a councillor and that of an MSP.

- Consideration needs to be given to ensuring that individual councils are placed in a position whereby they may put in place suitable support service arrangements for their local councillors.

- Elected members should have access to join a pension scheme, if they so wish. It would be discriminatory to deny this. Pension arrangements should be transferable to/from other schemes with councillors’ contributions to the Scheme
being supported by an appropriate employer’s contribution. It is suggested that
the Scottish Parliamentary Pension Scheme which applies to MSPs would be a
model worthy of further investigation.

- If the provision of a pension scheme for councillors is taken forward and it is
  based on the MSPs’ Scheme then there would appear to be merit in also
  instituting a Severance Payment Scheme for Councillors along similar lines to
  that available to MSPs. It would form part of a “benefits package” that would
  serve to attract and retain high calibre councillors.

Section 4 - Electoral Reform

32. COSLA’s role must be to address and influence the key issues facing Scottish local
government which include local government’s role; its status and credibility as a level of
government; its resourcing; and constitutional issues impacting on its relationship with the
Scottish Executive and the Scottish Parliament. It is by addressing these issues that we will
be able to achieve our aspirations for local government. The issue of low voter turnout should
be sit alongside strengthening local government and should be addressed through the route of
removing barriers and encouraging voter participation (see section 2 of this response).

33. Our strong view is that the debate on electoral reform is a diversion from action on
these issues and in fact confuses matters. Like boundary changes and tinkering with local
government’s functions, it is about fixing perceived problems without properly defining what
they are. The evidence in the White Paper is particularly scant stating simply that there are
supporters of alternative electoral systems.

34. The Minister for Finance and Public Services has himself said in the foreword to the
White Paper that the Executive is committed to strengthening local governance and improving
public services. We would urge the Scottish Executive to do that by working with COSLA to
address our longstanding concerns about the measures needed that Scotland has strong and
vibrant local government.

35. A strong and vibrant local government should not have to operate within a system of
financial dependency on central government. It should have the freedom to deliver solutions
which meet the needs of the communities it has been elected to serve. It should not be
subject to central direction and control. It should not be possible to easily re-organise the
boundaries and functions of a strong elected layer of government at local level. These are
the issues we should be addressing and even if electoral reform was to be in place tomorrow it
would not in itself deliver change on these aspirations.

36. On the various alternatives in the White Paper, there are three crucial factors from
COSLA’s point of view. The first is maintenance of the member-ward link. Linked to that, we
consider that the straightforward election of a community representative is more important
than focusing on achieving proportionality at Council level in terms of votes cast across the
Council area. And lastly, we strongly urge that any electoral system must be able to
accommodate the election of independent Councillors. We do not believe that AMS, STV, or
AV+ can deliver maintenance of the member-ward link as they are all multi member ward
systems. Also multi member wards tend to be larger than wards under the current system and
we do not believe that would be in the best interests of rural areas. The only alternative
electoral system which can deliver on maintenance of the member ward link is AV which
operates on the basis of one member per ward. However, it is a system of proportionality which would cut across our strong view that election of a community representative is more important than focusing on achieving proportionality at Council level in terms of votes cast across the Council area. Another disadvantage is that evidence makes it clear that while it may deliver proportionality at ward level it results in disproportionality at Council level.

37. The view of the majority of COSLA’s Councils therefore is that there should be no change to the status quo. We do not believe the case for change has been made. The First Past The Post System provides for strong political leadership of a Council with a clear mandate to carry through the programme of measures put to the electorate. It also provides a clear member-ward link and gives a fair opportunity for independent Councillors to be elected.

38. We would highlight, however, that there was also a committed minority view supporting change with a range of electoral systems being preferred including AV, AV+ and STV.

Section 5 - Improvement in Scottish Local Government

39. A joint COSLA/SOLACE submission regarding improvement in local government sets out further detail and is available as a background paper. However, there are certain key principles concerning improvement which are worthy of inclusion in the body of our response to the White Paper.

Key principles
- Continuous improvement must be at the heart of Scottish local government for two critical and related reasons. First, public expectations are continuously (and rightly) increasing. There will never be sufficient resources to meet expectations, but our responsibility in Scottish local government is to strive to ensure that resources are used in the most effective, efficient and economical way possible. Second, Councils will shortly have a statutory duty to make arrangements to secure best value – which is properly defined “as continuous improvement in the performance of the Council’s functions”. Thus the overarching context for continuous improvement in local government is that of Best Value.

- Local government employs a significant workforce of more than 280,000 employees. In order to bring about continuous improvement in the performance of this workforce significant investment in skills and development is required. There is evidence that investment is happening and this is reflected in the continuing improvement indicated in the Controller of Audit’s report covering the years 1998/99 to 2000/01. However, as continuous improvement is now a statutory feature of Scottish local government, permanent investment in skills and development will be required.

- Current investment in skills and development is inconsistent across Scottish local government with the overall level of investment per employee comparing unfavourably with similar investment in England and Wales. Furthermore, Local Government in Scotland has no equivalent of an institution like the Tulliallan Police College to provide a focus for continuous commitment and investment in the training of our staff.

Current Position
40. COSLA accepts the proposal from Ministers in the White Paper for the development of a new service which would support continuous improvement. We believe that a starting point for the creation of such a service is the ownership of the improvement agenda by local government at the level of individual Councils, but also collectively.

41. In creating this new service there is a recognition that much of the opportunity for improvement is across the public sector rather than simply within local government. This is particularly true given the importance of the Community Planning approach. However, considering the current differential of investment in skills development across the public sector, COSLA proposes that this new service would initially focus on local government with an intention to extend provision across the public sector only when a common platform amongst public agencies has been achieved.

The Way Ahead

42. Any new service should focus on what local government should collectively do in pursuing continuous improvement. The key areas are as follows:

- Skills development and building organisational capacity (including leadership skills and the skills of all employees and all members).
- Providing support and challenge to Councils’ search for continuous improvement.
- Facilitating the sharing of knowledge and best practice both across local government and with our community planning partners.
- Providing or facilitating mutual self-help.

43. To address these issues, we propose a new Improvement Partnership for Scottish Local Government. The make-up of this partnership needs to reflect the genuine ownership of the improvement agenda by local government and a degree of independence from it. There must be an effective balance between support for local government as well as a challenge to it. It is proposed that the partnership should have a small Board comprising 3 representatives from COSLA, 1 from SOLACE, 1 from APSE along with individual representatives of SODOPS, STUC, the Executive and Audit Scotland. The Board would provide a funding route for resources from the Executive to local government. It would also be valuable to have an independent person on the Board to provide objective input to public services.

44. We see the primary role of the partnership as co-ordinating, facilitating and accrediting improvement work. An immediate priority for the partnership would be a fundamental review of existing opportunities and provision in both the public and private sector with a view to securing better co-ordination and identification of gaps in provision. It is not envisaged that this partnership would have a primary role in the delivery of services.

45. We would stress that the model recommended must not become a huge bureaucracy. It should be small and run as cost effectively as possible. A business plan will be produced for the partnership based on securing the resources to undertake four principle functions:

a. **Diagnostic** – providing support and challenge to Councils in their journey of continuous Improvement. In this context we see the partnership as the logical body to take forward the work of the Leadership Advisory Panel.
b. **The Information Exchange**— in England, IdeA Knowledge is a web based service aimed at sharing information on performance practice and innovation. It is clear that Scottish local government needs a similar provision to share best practice and experience, not just from within local government, but from other parts of the public sector.

c. **Skills Development & Building Organisational** – the partnership will have an important role in supporting Councils in identifying new skill requirements, common training needs and cost-effective methods of procuring service.

d. **Providing Mutual Self-Help** – the objective of the partnership should be to create a climate of mutual self-help in Scottish local government with a clear focus on support and improvement, not failure. The partnership must be seen as a genuine critical friend, an asset to local government and not a prescriptive ‘Big Brother’.

46. In order to ensure the partnership is properly resourced to undertake the whole range of functions outlined above, we believe there will be a requirement for a significant budget to support this work. This must be transparently new money for local government and not top sliced from existing resources. The detailed business plan for the partnership will identify the exact level of resources required. The White Paper “Renewing Local Democracy” states that local government is key to Scotland’s success. Ensuring that success requires the creation of an adequately resourced, effective and credible improvement partnership for Scottish local government.

**Section 6 - Capital Expenditure**

47. The following is a summary of COSLA’s response to comments within the White Paper on capital expenditure. Fuller detail is available in the background paper.

48. A key to tackling some of the current pressures on revenue budgets and to transforming services is substantial capital investment in the short term. There is a major investment need in local government both to address much needed investment in existing infrastructures and to take forward the modernisation agenda.

49. Such investment need cannot be delivered under current resource and system constraints. The system which is currently in place is, in essence, preventative rather than enabling. It is rules based and is over-complicated. The system also does not, through year-end flexibility, carry forward etc arrangements adequately recognise the longer term nature of capital investment.

50. COSLA, therefore, welcomes plans to abolish existing controls and replace these by a system of professionally endorsed prudential safeguards designed for use at a local level. These should recognise the diversity of individual councils. These measures must be supported by a firm commitment from central government to provide funding on a sustainable basis, sufficient to allow councils to address investment needs.

**Housing Capital**

51. COSLA has major concerns over the Scottish Executive’s proposals not to extend the application of a new prudential framework to housing investment.
52. Good housing is seen as essential to good health, social justice and welfare. The government is seeking to address the issues of social exclusion and the general improvement of public services by reinforcing links between services. Good housing has a high influence on health and displays a strong correlation with academic achievement. It is also central to a range of social issues such as the successful re-introduction of offenders into society and the success or otherwise of young children in care integrating into society. Furthermore, a substantial majority of Council house tenants are now elderly, receiving a range of curative and palliative care.

53. The abolition of Section 94 consent restrictions would enable Councils to select the most suitable method for financing capital works within a prudential framework.

54. A consistent approach between the HRA and the General Fund is essential as both would be borrowing through the statutory loans' pool used by all Councils as the mechanism for the management of external debt.

55. Councils capacity to invest in housing is currently significantly restricted by the requirement to apply 75% of receipts generated to redeem outstanding debt. The set aside arrangements were removed for non-housing from August 1998 and, recognising the developments which have taken place over the last few years and the future direction for housing provision, the Scottish Executive should now remove the set aside requirement for housing.

*Regulatory Framework On Investments*

It is essential that the Scottish Executive takes the earliest legislative opportunity to review provisions in Scotland which are still underpinned by the 1975 Act.
Proportional Representation (Local Government Elections)  
(Scotland) Bill

Fairshare welcomes the introduction of this Bill and is pleased to have the opportunity to present evidence to the Local Government Committee as a contribution to the Stage 1 consideration of the Bill.

Fairshare believes that to be fully effective, local government councils must be properly representative of the communities they serve and that councillors must be democratically accountable to their local electorates. This enabling Bill provides the practical means to make that the reality in Scotland.

The Bill is in line with the recommendations in the Reports of the McIntosh Commission (June 1999) and the Kerley Working Group (June 2000). Fairshare has previously presented evidence to the Local Government Committee (13 May 2002) on the general issues raised in those Reports and on the implementation of their recommendations relating to the voting system. Fairshare has also made an extensive submission (23 July 2002) on these issues in response to the Scottish Executive’s consultation on its White Paper “Renewing Local Democracy: The Next Steps”. In this paper we concentrate on the four topics highlighted in the Committee’s Call for Evidence.

Reasoning behind the introduction of the Bill

The purpose of this Bill is quite simply to enable the introduction of the Single Transferable Vote system of Proportional Representation (STV-PR) for future local government elections in Scotland. It would give effect to the recommendations of the Renewing Local Democracy Working Group (Kerley Report, June 2000) and the Commission on Local Government and The Scottish Parliament (McIntosh Report, June 1999).

The approach adopted – the promotion of enabling legislation – is the same as that adopted when STV-PR was re-introduced for local government elections in Northern Ireland in 1972. The Bill sets down the general principle of PR by STV and provides the essential definition of the Single Transferable Vote, following the long-established precedent of previous UK legislation.

We are aware that the Scottish Executive has given an undertaking that it will publish, before the end of the current Parliamentary session, a Bill that will include provisions for the introduction of STV-PR for future local government elections. However, it is the Executive’s intention that that Bill should not be considered in this session of Parliament. It should also be noted that the proposal to introduce the Bill currently before the Committee was lodged on 21 November 2001 when it was not at all clear what action the Scottish Executive might take to implement the Kerley and McIntosh recommendations.
We believe the Parliament should take the opportunity afforded by this Bill to send a clear signal to electors and candidates alike that the 2003 local Council elections will be the last held under the present First-Past-The-Post (FPTP) voting system.

**Key issues raised by the proposed legislation**

The proposed legislation would change fundamentally the relationship between electors and their local councils in two very important ways. The McIntosh Commission stated: “We believe that, as far as is practicable, every vote should count, and that Councils, in their composition, should reflect the range and balance of views within the communities which they serve” (Report para 76). It is well documented that many council elections in Scotland produce outcomes that fail to meet either of these requirements. The proposed legislation would change that.

With the FPTP voting system, half of the votes cast in every election have no effect on the outcome, either at ward level or in the overall composition of the council. With STV-PR nearly all the votes would have a direct effect on the outcome. This would give electors a real incentive to vote and give the overwhelming majority of voters, councillors they had helped to elect. This will, in turn, increase the accountability of councillors to the constituencies of local voters who had elected them.

Experience of STV-PR in Ireland and in Northern Ireland has shown that this stronger personal link between the electors and their councillors more than offsets the effects of introducing the multi-member wards that are necessary for any form of PR. This is a unique feature of the STV system of PR.

The most obvious effect of the proposed legislation would be to change the balance of party representation on those councils where elections are contested mainly by candidates nominated by political parties and where the FPTP voting system distorts the wishes of the voters. All of the four main political parties benefit from this FPTP distortion, but to varying degrees and in different parts of Scotland. This change would be greatest in councils where a party presently has an overwhelming dominance that does not reflect the proportional of the total vote given to it.

The benefits of securing better balance in the representation of the political parties go beyond those of better representation of the range and balance of the views within the community. Debate about local priorities will be more robust and decision-making about the local provision of services will be stronger if there is an effective opposition and effective scrutiny within the council. This will apply both where there is a single party majority administration and where there is a plurality of party representation with no one party in overall control.

Reporting on a study of councils with 'no overall control', Michael Temple concluded: “Hung councils are typically more open and democratic than single party controlled councils and local political parties have demonstrated that they can deliver effective and stable coalition government in Britain. They provide powerful evidence that the likely result of proportional representation – a hung legislature – is not a recipe for corruption and confusion but can offer an opportunity to provide a more appropriate environment of consensus for twenty-first century British politics.” (Representation 1999, vol 36, pp 253 – 259)
So far as local government in Scotland is concerned, that would certainly be in tune with the wishes of the overwhelming majority of electors as determined by public opinion polls.

**Consequences of enacting the Bill**

This Bill, if enacted, would empower Scottish Ministers to bring the Act into force and so change the voting system for future local government elections from FPTP to STV-PR. Implementation of STV-PR would require changes in the related regulations and elections rules, but text for these that could be readily adapted is already available in the UK legislation that applies in Northern Ireland.

For the first STV-PR elections, Scottish Ministers would need to prepare and publish a schedule of the multi-member wards for each Council area. The Bill specifies that the maximum number of councillors to be returned from any one ward shall be eight. This provides adequate scope for the flexible implementation of STV-PR to meet the needs of both densely populated city and urban areas and more sparsely populated rural areas. The Bill would require Scottish Ministers to consult appropriate persons and bodies before such a schedule was published, but the whole task need not take long. When STV-PR was re-introduced for council elections in Northern Ireland, the final schemes of multi-member wards were agreed and published just three months after the STV legislation took effect.

There would be a need for a campaign of voter education before the first STV-PR election, as recommended in the Kerley Report (para 85). The approach used in Northern Ireland in 1973 would be a good starting point. The Government carried out a campaign of voter education by leaflet, advertisement, radio and television, with the theme “PR is as easy as 1, 2, 3 …”. When giving evidence to this Committee, representatives of the Returning Officers in Scotland said they would not consider the introduction of STV-PR for local government elections a problem provided there was adequate voter education beforehand.

Training for Returning Officers would be essential. When STV-PR was re-introduced in Northern Ireland in 1972, the Electoral Reform Society ran practical training courses for about 300 of the staff who were to be involved in operating the 40 counting centres then employed. Similar courses could be provided in Scotland using staff who have practical experience of running STV-PR elections. Returning Officers could also draw on the experience of their colleagues in Northern Ireland. NB Stirling Council already uses STV-PR to elect all the Community Councils within its LGA.

Experience from Northern Ireland suggests that the political parties in Scotland would adapt rapidly to the change in voting system. They would be able to obtain relevant practical advice from the political parties in Ireland and Northern Ireland where STV-PR has been used in local government elections for 80 years and 30 years respectively.

The main change for political parties would be the need to field a team of candidates in each multi-member ward. Parties would have to give careful consideration to the
selection of their teams, but this change would allow them to respond positively to the recommendation (19) in the Kerley Report to review their arrangements for selecting candidates.

**Consultative processes undertaken before introduction of the Bill**

There can be few Bills on issues that have been the subject of such extensive consultation as this one.

The McIntosh Commission was set up in 1998 and consulted widely and in depth. The Commission visited every Council area in Scotland when they met elected members (usually the full council), senior officers, trade union representatives, community groups, the local press, business interests and the general public. They took special steps to consult with young people throughout Scotland and had meetings with representatives of ethnic and minority groups. They reported that they had met face to face with several thousand individuals from all walks of life and had heard their views (Report para 3). The Commission also received more than 450 written responses and commissioned research on several topics, including voting systems.

The Commission published its Consultation Paper 1 in April 1998. In this paper it outlined some of the problems arising from the FPTP voting system and invited comment on other voting systems (para 14). The Commission published its Consultation Paper 2 in November 1998 when it reported that it had “found substantial and widespread support for the view that a move to some form of proportional representation (PR) would be beneficial for local government” (para 115). In that Paper the Commission invited views on the criteria that should be used to determine the appropriate voting system for local government and also described eight different voting systems that could be used.

In their Report, the McIntosh Commission concluded: “we are convinced that a move to PR is an essential step towards the goal of enhancing local democracy; and that it should therefore take place as soon as practicable” (para 88). They also stated that with regard to specific systems, the responses to their Consultation Papers had shown there was “clearly a body of opinion in favour of STV” (para 87).

This support for STV as the appropriate system of PR for local government was confirmed more recently, in the responses to the Scottish Executive’s consultation on its White Paper. Of the 316 written responses on electoral reform, 252 (80%) were in support of STV-PR, while a further 25 (8%) were in favour of PR; only 39 responses (12%) supported the retention of FPTP. (For a summary of the responses, see: http://www.scotland.gov.uk/library5/localgov/spiceresponses.pdf)

More general public support for the changes that would be brought about by this Bill is apparent from the results of opinion polls conducted by System Three in February 2000 and by ICM Research in October 2000. Of those questioned, 70% agreed that parties should win seats in proportion to their shares of the votes. Even more agreed that a voting system that encouraged councillors of different parties to co-operate would be likely to lead to better local government. Support for these views was uniformly high among supporters of all four of the main political parties in Scotland.
There has been adequate research and consultation on the subject of this Bill. Now it is time for action.
PROPORTIONAL REPRESENTATION (LOCAL GOVERNMENT ELECTIONS) (SCOTLAND) BILL

MEMORANDUM BY THE SCOTTISH EXECUTIVE TO THE LOCAL GOVERNMENT COMMITTEE OF THE SCOTTISH PARLIAMENT

October 2002
PROPORTIONAL REPRESENTATION (LOCAL GOVERNMENT ELECTIONS) (SCOTLAND) BILL

Introduction

1. This memorandum has been prepared by the Scottish Executive to assist the Local Government Committee (as the lead committee) in its consideration of the Proportional Representation (Local Government Elections) (Scotland) Bill which was introduced by Tricia Marwick MSP on 26 June 2002. The memorandum reiterates the Executive’s commitment to making progress on electoral reform for local government and sets out the Executive’s plans for taking this forward.

Background

2. In June 1999, the Commission on Local Government and the Scottish Parliament (the McIntosh Commission) recommended that ‘Proportional Representation should be introduced for local government elections. A review should be set up immediately, to identify the most appropriate voting system for Scottish local government.’ The Executive established the Renewing Local Democracy Working Group (known as the Kerley Group) in July 1999 to take forward this review. The Group reported in June 2000 and recommended the introduction of a new electoral system, the Single Transferable Vote (STV).

3. The Executive subsequently established the Cabinet Sub-Committee on Renewing Local Democracy to take forward consideration of the issues arising from the Kerley recommendations. The work of this Committee led to the publication earlier this year of the Local Government White Paper ‘Renewing Local Democracy: The Next Steps’.

4. The White Paper looked at a number of issues relating to local government, including electoral reform. Responses to the consultation on the White Paper showed a significant majority in favour of the Single Transferable Vote (STV) system. The Executive therefore confirmed on 24 September that it will publish a Local Governance Bill before the end of the Parliamentary session. The Bill will include STV as the alternative choice to the First Past the Post system for local authority elections. The published Bill will then be available for decision by the new Executive following the May 2003 Scottish parliamentary elections.

Summary of the Private Member’s Bill

7. The purpose of the Proportional Representation (Local Government Elections) (Scotland) Bill is to introduce STV for local government elections. Section 1 of the Bill amends section 42 of the Representation of the People Act 1983 which deals with the conduct of local government elections in Scotland and provides that the current system of voting be replaced by STV. The wording of Section 1 appears to reflect that used in the legislation used to bring in STV for local government elections in Northern Ireland.

8. Section 2 provides Scottish Ministers with order-making powers which would enable them to establish new multi-member electoral wards for local authorities. The section also requires Ministers to consult on any draft instrument proposed under these powers and that such an order could only be made following an affirmative resolution by the Scottish Parliament. Section 4 also gives Scottish Ministers further order-making powers in respect of any incidental, consequential, transitional or supplementary provisions they consider
necessary in connection with the Act. A statutory instrument made under these powers would need an affirmative resolution of the Parliament if it amended or repealed legislation and a negative resolution if it dealt with other matters.

**The Executive’s view**

9. The Executive has emphasised its commitment to making progress on electoral reform in line with the principles of the Kerley Group’s report. The Executive’s position was set out in the Local Government White Paper published in March this year and in the statement made on 24 September. The Executive’s main concerns about the proposals contained in the Bill are the following:

9.1 *The Bill cuts across the work which is already in hand on the issue of electoral reform:* The Executive has already consulted on options for electoral reform, as part of the wider modernising government agenda and has announced that it will publish a Local Governance Bill, which will include STV, before the end of this Parliamentary session.

9.2 *Lack of policy context or consultation:* The supporting documents for the Bill do not appear to include a context for the policy behind the Bill, its objectives, the other options considered, or the reason for introducing STV. There does not appear to have been any consultation to help inform the principle or content of the Bill. Nor is there any indication of a timetable for introduction and the processes that would need to be in place to allow a new system to operate.

9.3 *Financial and resource implications:* There is no indication in the Financial Memorandum of the likely financial or resource costs of introducing a new electoral system, although the Presiding Officer has indicated that a financial resolution would be required for this Bill.

9.3.1 *Implications for the Executive:* The Financial Memorandum recognises that publicising any new electoral system will have resource implications for the Executive. It is not possible from the documentation to determine the likely cost of such a publicity exercise and of a training package for elections staff.

9.3.2 *Implications for local government:* The Financial Memorandum indicates that there will be no resource implications for local government. In fact, the cost of administering local government elections falls to local authorities and is met from within their existing budgets. The administration of a new electoral system would result in increased expenditure for local authorities and discussions would need to be held to determine the extent of the additional costs resulting.

9.3.3 *Implications for the LGBCS:* The Memorandum recognises that the Local Government Boundary Commission for Scotland (LGBCS) will require to make recommendations in relation to new electoral wards if STV is introduced, but advises that the Commission is scheduled to conduct a review of electoral arrangements in 2004 and that any additional expense will therefore be minimal. In fact the Commission is scheduled to undertake an
administrative review of boundaries, not an electoral review. The White Paper made clear, however, that Ministers do not envisage a review of council boundaries or the number of councils in the foreseeable future. Consequently, Ministers are likely to issue a Direction to the LGBCS postponing the administrative review which they are statutorily required to undertake between 2004 and 2008.

In terms of costs for the LGBCS, the introduction of STV would require additional funding as the Commission would be required to draw up revised electoral boundaries and consult upon them before submitting their recommendations to Scottish Ministers.

10. The Executive is therefore opposed to this Bill.

Scottish Executive
October 2002